



INDEPENDENT BROADCAST CONSULTANTS, INC.

110 COUNTY RD. 148,  
TRUMANSBURG, N.Y. 14886-9721  
(607) 273-2970

DOCKET FILE COPY ORIGINAL

June 12, 1998

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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In re: MM Docket No. 98-43  
Notice of Proposed Rule Making  
1998 Biennial Regulatory Review  
--Streamlining of Mass Media  
Applications, Rules and  
Processes

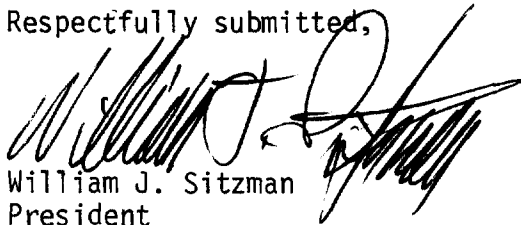
Dear Ms. Salas:

With reference to the above-captioned proceeding, our firm, Independent Broadcast Consultants, Inc. hereby offers its Formal Comment. We are advised the deadline for such comments in this proceeding is June 16th.

In accordance with the administrative instructions (paragraph 90) of the above-referenced Notice, we provide the Commission the original and eleven (11) copies of our Comment. We thereby provide sufficient copies for each Commissioner to receive a personal copy of the enclosed.

We trust our opinions and insights will be thoughtfully evaluated by the Commission, and we stand ready to provide your agency any further assistance it may request as it addresses this important matter.

Respectfully submitted,



William J. Sitzman  
President

Encl.

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INDEPENDENT BROADCAST CONSULTANTS, INC.

110 COUNTY RD. 146,  
TRUMANSBURG, N.Y. 14886-9721  
(607) 273-2970

FORMAL COMMENT

in the matter of

1998 Biennial Regulatory Review  
Streamlining of Mass Media Applications,  
Rules and Processes

MM Docket 98-43

June 1998

Submitted by:

William J. Sitzman

President

Independent Broadcast Consultants, Inc.

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Village of Trumansburg)

Tompkins County ) SS:

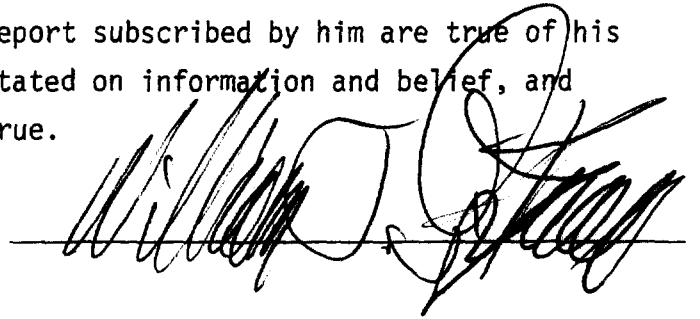
State of New York )

William J. Sitzman, being duly sworn upon his oath, deposes and states that:

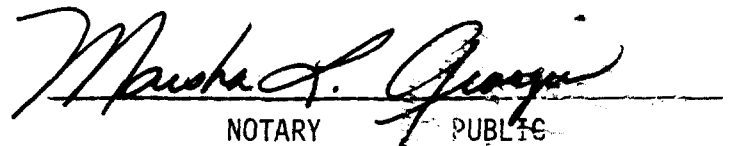
He is president of and a consulting communications engineer with the firm Independent Broadcast Consultants, Inc., with offices at 110 County Rd. #146, Trumansburg, New York 14886-9721.

His qualifications are a matter of record with the Federal Communications Commission, having filed numerous technical and engineering reports with them in the past which were accepted for filing and subsequently were granted approval.

The facts contained in this report subscribed by him are true of his own personal knowledge, except those stated on information and belief, and those facts he verily believes to be true.



Subscribed and sworn to before me this 12 day of June, 1998.



NOTARY PUBLIC

MARSHA L. GEORGIA  
Notary Public, State of New York  
No. 4791235  
Qualified in Tompkins County  
Commission Expires Sept. 30, 1999

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of:

1998 Biennial Regulatory Review --	}	MM Docket 98-43
Streamlining of Mass Media Applications,	}	
Rules and Processes	}	

EXECUTIVE SUMMARY

Independent Broadcast Consultants, Inc. ("IBC"), of 110 County Road 146, Trumansburg, NY 14886-9721 Submits its Formal Comment in the above-referenced proceeding to address Commission initiatives toward increased, perhaps mandatory, electronic filing of as many as 16 key Mass Media broadcast application and reporting forms and the Commission's proposed simplification of those forms and the removal of many current documentation requirements. IBC fears conversion to a mandatory electronic filing system would adversely impact smaller broadcasters, broadcast applicants and their consultants. And we believe the Commission's tentative proposals for applicant submissions would abruptly and severely "dumb down" the review process. We urge the Commission re-examine its tentative conclusions.

From its quarter-century of experience as a broadcast technical consultant and its representation of more than 400 broadcasters and broadcast applicants, IBC maintains conversion to universal electronic filing would increase cost and inconvenience for a majority of small broadcasters. The change could also compromise the public's ability to evaluate proposals and hamper the industry's ability to access "hard copy" filings for necessary research. IBC worries use of Taxpayer Identification Numbers as electronic passwords could pose security problems; and that computer crashes and data compression techniques could destroy files or corrupt data. Network failures could prevent some time-sensitive applications altogether. Filing fees supposedly cover processing costs; thus, frequently-mentioned Commission economies should be given only secondary concern.

Proposed form revisions would institute a so-called "*filing friendly*" format of "tech box" simplicity, replacing descriptive narratives and valuable exhibits with "yes/no" checkboxes and blind certifications. In IBC's view, broadcast engineering is not a "one size fits all" science. Driving the engineering statement into extinction would cut the heart out of many a broadcast application and destroy the unique explanations and waiver requests some applicants deserve. IBC recommends the Commission retain most current technical documentation requirements, including those for site maps, site sketches, coverage contour calculations and maps, and detailed AM allocation studies. We urge site certifications contain information sufficient to allow independent verification; and that FM directional patterns supply data adequate at the construction permit stage to ensure compliance with the Rules. We believe current engineering applications are about as bare-bones as they should get; and we predict placing applicants on the "honor system" will only encourage abuse.

IBC generally welcomes proposed revisions in Commission procedures governing construction permit extensions; particularly it endorses extending such permits to three-year terms, and placing a more rigorous Commission threshold on extensions beyond that term. However, IBC disagrees with the tentative conclusion that continuing zoning disputes should not generally qualify as valid grounds for extension. The change would place the permittee at the mercy of hostile parties who would kill any proposal through protracted delay.

IBC's engineers applaud common-sense deregulation and the benefits derived from computer technology. But we oppose any initiative to compromise the protections of intelligently-crafted technical rules for the sake of Commission economy and convenience. In sum total, we believe the Commission's proposals would make our job, and that for most of our clients, more difficult and often more expensive. We urge the agency proceed cautiously.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of:	)	
	)	
1998 Biennial Regulatory Review --	)	MM Docket 98-43
Streamlining of Mass Media Applications,	)	
Rules and Processes	)	

To: The Commission

FORMAL COMMENT  
by  
INDEPENDENT BROADCAST CONSULTANTS, INC.

Independent Broadcast Consultants, Inc. ("IBC"), of 110 County Road 146, Trumansburg, New York 14886-9721 hereby submits its Formal Comment in the above-referenced proceeding, MM Docket 98-43, a Notice of Proposed Rule Making ("NPRM") which, in the course of its 1998 Biennial Regulatory Review, the Commission advances proposals to streamline Mass Media applications, rules and processes. IBC advances its opinions on the NPRM from its standpoint as a broadcast engineering consulting firm with more than a quarter century of experience in preparing broadcast construction permit and license applications, interacting with FCC staff, and assisting radio and television clients in regulatory compliance. IBC trusts its insights and judgments will be weighed thoughtfully and sincerely by Commission staff prior to adoption of any of the proposals advanced in the NPRM. IBC also encourages the Commission give comparable consideration to the opinions of other technical consultants and engineering associations which hold direct knowledge of the validity and necessity of current regulations as they affect broadcast licensing and spectrum assignment. We, like our Commission counterparts, stand on the front lines of the allocation process. We acknowledge the benefits of technological advances, but also recognize the dangers of relaxing "tried and true"

review procedures and engineering standards. We trust our voices will be heard.

#### COMMENTS'S QUALIFICATIONS

Independent Broadcast Consultants., Inc. has for the past 25 years provided engineering consultant services for more than 400 AM, FM, or television broadcast licensees and applicants. Its president, William J. Sitzman, holds a First Class Radiotelephone license. He is a long-time member and current participant in the Society of Broadcast Engineers. Mr. Sitzman has over IBC's history submitted numerous technical reports to the Commission under his signature, reports which have secured IBC's clients construction permits or broadcast licenses. IBC's other full-time staff engineers, Robert A. Lynch and Norman L. Hollenbeck, are likewise skilled and experienced in broadcast allocation engineering. Like Mr. Sitzman, Mr. Lynch has also represented clients in engineering applications before the FCC. Each engineer's qualifications are a matter of Commission record. And each engineer concurs with the opinions advanced in this Formal Comment.

#### OVERVIEW

IBC holds the greatest respect for the Commission's leadership and staff. Nonetheless, it is deeply troubled by many of the proposals advanced in the NPRM, most importantly its proposal for mandatory electronic filing of most broadcast applications and its companion proposal to relax the technical documentation required to sustain such applications. In its simplest terms, the Commission's opinion seems to have become: "Electronic filing saves money. But since computers can't digest many current exhibits, we'll throw out any exhibit the computer can't read." In IBC's opinion, that amounts to regulation in reverse. Commission review procedures are essential to ascertain regulatory compliance, safeguard other broadcasters from potential interference, and defend the public interest. And applicant filing fees pay for this review. If human



oversight provides a more thorough, even if slightly more time-consuming, review of broadcast applications, so be it. Application approval is never an overnight process, anyway. In this commenter's view, the NPRM's proposals sacrifice too much essential documentation for the sake of economy and expediency.

IBC's comments in the paragraphs to follow will address specific procedural changes in the context of this company's three greatest concerns. IBC fears the transition to electronic filing and the Commission's corresponding rule changes would:

- 1) Significantly and irreparably compromise the Commission's standards of allocation and the agency's ability to hold applicants accountable to those standards;
- 2) Adversely and disproportionately impact smaller scale broadcasters, broadcast applicants and the professionals who serve them, and;
- 3) Unwisely impede the public's ability to access vital information about filings before the Commission.

#### MANDATORY ELECTRONIC FILING

As its core proposal, the NPRM seeks comment on the Commission's initiative for electronic filing, either mandatory or permissive, of 16 key Mass Media Bureau broadcast application and reporting forms, including the much-used Forms 301, 302-AM and 302-FM for new or modified broadcast stations. Such forms and their included exhibits have traditionally provided the most vital technical and non-technical data on which stations have existed for years, if not decades. The filings serve as an essential research tool far beyond their Commission approval and may currently be accessed easily in the Commission's reference room. They also carry great value during the review process when viewed by members of the general public or other potentially impacted broadcasters contemplating Informal Objections or Petitions to Deny. As with assignment and transfer application Forms 314 and 315, said forms tell the public most about who the applicant/licensee is and what he or she intends to do.

In its introduction, the NPRM states the Commission's goals are, in part, to *"reduce applicant and licensee burdens...and preserve the public's ability to participate fully in our broadcast licensing process."* IBC fears a conversion to mandatory electronic filing would produce just the opposite impact, especially for smaller entities. While many existing stations possess computers, many individual applicants do not. Furthermore, many established stations still lack the internet access needed to file and monitor applications, or the sophisticated gear required to scan and enter signature pages or required exhibits. And what happens to the public file? If all filings are electronic, would an individual applicant need to maintain a functioning computer at the library or municipal office in which his application were filed? Or would he be required to download a hard-copy paper version?

At IBC, we utilize our personal computer as a research tool, but not for map preparation, AM soil conductivity analysis, or to prepare the final application. Retooling our small business to accommodate electronic-only filing procedures would entail tens of thousands of dollars in investment, costs we would be required to pass on to our clients. Many tasks simply cannot be performed acceptably on computer. For example, we reject computer-generated Figure M-3 AM allocation maps as lying beneath our level of professionalism. An in-house FM contour calculation program has been sidelined due to its unacceptable approximations. We either secure FM contour data from an outside supplier, or compute it manually from FCC charts. Aside from the FCC forms themselves, we would find ourselves scanning most manually-prepared exhibits into the computer, then trusting in the scanner's accuracy. We question such accuracy, especially when dealing with delicate AM soil conductivity analysis. Mandatory electronic filing would impose more labor for us, and hence more client expense. And even when our job is complete, we submit a majority of our clients would be ill-equipped to file their portions of the application without outside third-party help.

Laced throughout the NPRM are predictions that conversion to (preferably mandatory) electronic filing would, "*reduce the administrative burden*" of the broadcast application process, "*permit meaningful efficiencies*," or "*save Commission resources*." However, the Commission should be reminded that broadcast applicants supposedly pay the cost of Commission review through ever-increasing filing fees. These fees were established more than a decade ago purportedly to reflect the average cost of the task at hand. And the fees increase every two years based on the Consumer Price Index. At present, a new or major change AM broadcast applicant pays \$2,740 for the privilege of filing Form 301, even if the application is trouble-free. A new/major change FM applicant pays \$2,470 for a similar filing. And both fees will rise later this year. For nearly three thousand dollars, an applicant deserves a quality review, as do other broadcasters potentially impacted by such a filing, as well as the general public. Nowhere in the NPRM is it proposed to *reduce* filing fees to allow for the increased efficiency of electronic filing. Instead, IBC suspects, the Commission will simply pocket the difference. The filing fee mechanism should not become an FCC profit center.

If the Commission adopts electronic filing procedures, such procedures should be permissive, not mandatory. And IBC encourages the Commission to establish incentives to encourage their use. The NPRM suggests paper filers be required to pay higher filing fees. To the contrary, IBC suggests the Commission instead *lower* current filing fees for those filing electronically, since existing rates were established based on paper submissions. However, even if electronic filing is allowed as an option, IBC urges the Commission require at least one hard-copy paper version be submitted for reference purposes, and a second paper version be placed in the applicant's public file. Those less skilled in computer technology should be assured equal access to such public documents.

### SECURITY CONCERNS

In the NPRM, the Commission proposes requiring each broadcast applicant to submit a Taxpayer Identification Number ("TIN"), either its employer identification number or an individual's Social Security number, as a prerequisite for using the electronic filing system. Further, this TIN would serve as a *"unique identifier for such parties."* IBC infers the Commission thereby intends the TIN to serve as a computer password for applicants to amend or withdraw their applications or otherwise communicate with the Commission regarding their filings. The NPRM also states that applicants filing manually would likewise be required to submit their TIN on the application form. The Commission states it would, *"take steps to prevent misuse of TINs,"* including the design of an electronic filing system that prevents general public access to the TIN and the limitation of the number of Commission employees who have access to the TIN.

While an individual's or company's TIN may be unique, it is hardly a secret. Vendors, banks, creditors and collection agencies often enjoy routine access to these numbers. And media reports indicate such numbers can easily be retrieved by computer hackers and high-tech criminals. IBC fears a hacker, a competing applicant, or an unscrupulous market competitor could secure the TIN, use it as the key to unlock an applicant's file, purport to represent the applicant, and then amend, contaminate or delete an applicant's filing with a point and a click. Without a hard-copy backup, the applicant would be at a loss to defend himself, and might not realize the unauthorized invasion until weeks or months later. At present, any amendment or submission pertinent to an application requires an "original signature" copy by the applicant and his or her consultant. Original signature copies are impossible in cyber space. By retaining hard-copy paper filings as a requirement, the Commission would ensure that no legitimate modification of an applicant's

intentions would be made without that applicant's approval.

An additional security concern involves the inherent safety of computer storage. What happens if the Commission's computer system crashes or is sabotaged? True, a fire in the Commission's reference room might destroy files. But multiple copy filing requirements currently ensure a backup. What if an applicant's computer file becomes corrupted, and the problem isn't uncovered til months or years later? Regardless of whether electronic filing is made mandatory, permissive or rejected altogether, the Commission should continue to require hard-copy paper submissions as a security guarantee.

#### ACCESS CONSIDERATIONS

In the NPRM, the Commission states its goal to create a *"customer-friendly environment"* in which applicants and members of the public enjoy easy access to Commission files. But IBC fears a mandatory electronic filing system may produce the exactly opposite impact. In its NPRM in MM Docket No. 97-237, in which the Commission sought comment on procedures to implement competitive bidding for new analog broadcast spectrum, the Commission tentatively proposed use of *"simultaneous multiple-round auctions"* for the assignment of licenses and strongly suggested use of remote bidding via computer. (IBC's Formal Comment in that proceeding opposed remote electronic bidding.) However, in the NPRM for Docket 97-237, the Commission acknowledged electronic bidding could place participants at risk of *"power outages, computer breakdowns, or other unforeseen circumstances."* The NPRM in Docket 97-237 further proposed establishment of uniform, periodic national filing windows for all new or major change construction permit applications, whether AM, FM or TV. Under such a system, IBC suspects pandemonium will reign on window-closing day. Should all filings be electronic, that confusion would likely extend to the Commission's

computer system. IBC's staff estimate that during recent years when they've called the Commission on routine days, information specialists advise about 10-20 per cent of the time that "the computer is down." What if the computer crashes during heavy use on uniform filing day? What if some applications get on file and others do not? What recourse would exist for the applicant frozen out? Such problems would not exist were the Commission (or its lockbox bank) to continue receiving paper filings individually via the mail or courier services.

A second access concern involves the dangers imposed by data compression techniques utilized by some computers. Under such technology, pages of copy are shrunk electronically for storage, but lose clarity when reexpanded for human use. Many technical exhibits, particularly AM nighttime skywave studies, contain thousands of numbers per page. Once compressed, then reexpanded, would critical mathematical data be lost? Hard-copy paper filings would eliminate that risk.

Were technical exhibits to be scanned into computer, IBC believes all exhibits would have to be 8½ by 11 inches in size. However, to enable sufficient clarity, IBC often finds it necessary to provide coverage maps, AM Monitor Point routing maps, or AM phasor drawing schematics on an 11 by 17 scale. Were scanning requirements to dictate smaller submissions, digital photoreductions combined with data compression storage mechanisms might produce maps or drawings that would be effectively illegible. Component designations on schematics would become just blobs of ink. Roads on routing maps would disappear.

### PROPRIETARY RIGHTS

As discussed earlier, IBC fears conversion to an all-electronic filing system endangers the applicant with loss of control of his or her filing. Similarly, electronic filing threatens the engineering consultant, as well as that consultant's subcontractors, with loss of proprietary control as it affects professional services and products. IBC has been advised that one of its major computer service providers intends to comment in this proceeding to that effect; and IBC will defer to that commenter as to the potential legal and ethical risks. However, in IBC's own case, our company senses that electronic storage of application data without hard-copy backup would make information piracy much easier and harder to prove. Virtually all IBC's filings carry a copyright against unauthorized use. But with electronic filing, unscrupulous applicants could more effectively download our client's data (such as AM nighttime studies or costly, time-consuming ground-wave field measurements), reformat and retile the data so as to hide the theft, then resubmit such data as their own. Proving copyright infringement might entail costly litigation by ourself or our clients.

### FEE COLLECTION PROCEDURES

Under current rules, all feeable commercial broadcast applications are first sent to the Mellon Bank in Pittsburgh, where they are received and dated, with fee checks cashed and applications forwarded to Washington for review. Presumably, such fee collection procedures would continue under an electronic filing system. But the NPRM appears silent on how the two processes would dovetail. Would all funds transfers need to be electronic? Would bank personnel in Pittsburgh become the first "gatekeeper" to any electronic application, rather than the Commission? Who would provide the essential date and time stamp of receipt? What if an applicant submitted his electronic application first and his funds transfer later (currently a tenderable defect.)

In recent years, application filing at the Pittsburgh lockbox has become an inconvenience, but a manageable one. But IBC fears the Commission has not truly thought through the fee collection implications of its electronic filing mechanism; and that all interests are best served by retaining the existing paper filing mechanism, at least as far as fee collections are concerned.

#### SIMPLIFIED APPLICATION STANDARDS

Even more serious than the inherent dangers and inequities which electronic filing would impose, IBC fears the detrimental consequences of the so-called streamlined application processing the Commission proposes to accommodate the computer. In our view, the changes would amount to a abrupt and severe "dumbing down" of the application process, whereby the most slipshod of filings would sneak through toward approval, especially should human oversight prove minimal. Under a system of "tech box" simplicity, "yes/no" certifications, and only random compliance audits, many otherwise tenderably unacceptable applications stand ready to enter the door. Legitimate applicants, other impacted stations, and the general public would all stand to lose. IBC urges the Commission thoughtfully reconsider and significantly scale back its proposals for simplifying application forms and exhibit requirements. Much of the remaining portion of this Comment will be devoted to these concerns.

In its opening paragraphs of the NPRM, the Commission proclaims,

*"This proceeding is premised on our belief that we can prudently increase our reliance on applicant certifications rather than more detailed applicant informational disclosures. These proposals are designed to reduce filing burdens and increase the efficiency of application processing."*

As IBC interprets the above, the Commission is willing to dumb-down filing requirements to save staff time and money, and place applicants on the "honor system." With all due respect, IBC has observed over the past two decades that the honor system functions poorly at best when it comes to broadcast compliance.



In the early 1980's, the Commission radically relaxed the monitoring and documentation requirements for AM broadcasters utilizing directional arrays. The results have been unfortunate, albeit predictable. With staff engineers an extinct breed at most stations and monitoring activities haphazard at best, we estimate that more than half the directional AM stations we now encounter are either operating outside licensed parameters or exhibiting serious defects which could prompt an FCC citation. Usually at least once monthly we'll receive a call from a new or continuing client asking we research such basic questions as licensed transmitter parameters, monitor point limits, or Public File requirements. Often, the station owner can't even put his hand on a copy of his station's FCC license. The increased frequency of FCC field inspections in our region has accelerated the number of these calls. Given our observation that technical compliance seems to have become an afterthought, rather than a top priority, IBC and its engineers remain skeptical of any Commission initiative to simplify documentation requirements still further and assume applicants will "do the right thing."

In its NPRM, the Commission tentatively concludes that,

*"...broadcast application forms should restrict, to the maximum extent possible, the use of exhibits to waiver requests or where additional information is necessary to support application elements potentially inconsistent with precedent or processing standards."*

Instead, the Commission advances a so-called "filing friendly" format of certifications and "yes/no" questions. From this standpoint, it would appear the Engineering Statement of a bona fide technical consultant stands as an endangered species in broadcast filings. And perhaps that fact alone symbolizes IBC's greatest concern. Construction permit applications, license applications and AM proofs-of-performance do not fit neatly into a "one size fits all" scientific structure. Each filing is unique; and a series of computer clicks and filled boxes cannot address the full range of questions a well-engineered application must answer. At times, waivers must be sought,

supplemental data presented, special showings made, and justifications articulated, all in full conformance with the letter and spirit of the Rules. By abbreviating forms and slashing the number of required exhibits, the Commission is short-circuiting the opportunities for skilled engineers to explain unique circumstances and sincere applicants to seek legitimate exceptions. Given the magnitude of current filing fees, applicants and their consultants deserve that privilege.

As a partial justification for its relaxed reporting requirements, the Commission states its intention to provide "worksheets" which the applicant would prepare to supplement his or her filing, though not submit the Commission, except, perhaps, upon audit, and not necessarily place in the Public File. The Commission also defends its honor system approach by stressing its agency, *"retains the capacity to verify compliance...through audits and inquiries."* IBC applauds the Commission for recognizing that its rules would not change even if filing procedures do. However, this commenter maintains the public would be better served should the Commission continue to require evidentiary filings, rather than selectively seek them later on a random basis. IBC fears selective audits run the risk of imposing disproportionate punishments on the few for the sins of the many, while allowing the vast majority of applicant offenses to go unchecked. If, however, worksheet requirements are established, the worksheets should be placed in the applicant's Public File and made available for audit review. Nonetheless, IBC would prefer these supplements be filed with the Commission at the outset.

As it addresses FCC Form 301, that for Construction Permit applications, the NPRM points to its vastly simplified engineering "Tech Box" sections. For example, it notes, Section V-B (FM Engineering) currently requires as many as 14 exhibits, whereas the revised version would require no more than one or two exhibits; *"Exhibits would be required only in*

*connection with the most critical technical and public safety matters, such as FM spacing, contour protection, and radiofrequency electromagnetic exposure guidelines."* Aside from the fact that the above statement tends to overstate present requirements and understate those proposed (the revised form would not eliminate 12-13 exhibits,) IBC maintains the present FM engineering section is about as bare-bones as the Commission should dare get. The average commercial FM application without contour protection or a directional antenna takes our staff only a few days to prepare, including forms, maps, sketches, contour estimates, and the Engineering Statement. And such an application provides FCC staff a complete and accurate representation to evaluate. Staff deserve nothing less. However, given the revised FM Engineering Section provided in APPENDIX B of the NPRM, proposed revisions would jettison not only site sketches and site maps, but also coverage contour maps demonstrating community coverage compliance. The FM Engineering revisions would not even require a tabulation of antenna HAAT and contours (though said tabulations would still be required for television applications; reasoning unexplained.) AM Engineering applications would still require certain exhibits, though exhibit requests would be much more open-ended than at present and subject to wide-ranging interpretation. As with FM filings, maps would be at a minimum. Since the Commission has not supplied sample Forms 302-AM and 302-FM, IBC cannot evaluate how the Commission would handle the sensitive, yet data-laden filing for an AM directional antenna proof-of-performance.

In the paragraphs to follow, IBC will evaluate Commission proposals to delete or modify specific exhibit requirements referenced in the NPRM.

SITE MAPS:

FCC Form 301 currently requires submission of at least a portion of a USGS 7½-min. topo map clearly identifying the proposed antenna site of an AM, FM or television broadcast facility. The Commission's revised form

would delete most map requirements, apparently because such maps are not easily converted to a digital format, and because the Commission assumes to verify a site's validity from FCC tower registration data on file. In this latter regard, two important points need be made. First, for most new, unbuilt facilities, tower registration numbers are not typically available on the date Form 301 is filed. Rather, tower registration applications are usually filed simultaneously with, or shortly after, Form 301 itself. Therefore, registration numbers would not be available at filing, since processing by the Support Services Branch usually takes several weeks. Secondly, current registration rules exempt short towers (under 200 feet AGL) not located near a designated airport. Unless the Commission were to amend current rules and require universal tower registration, not all antenna documentation would be available through the tower registration process.

However, an even more serious problem could arise through total reliance on antenna structure registration filings. Current antenna structure registration is a perfunctory process. No maps or other justifications need be submitted the Support Services Branch. Therefore, to IBC's knowledge, no one in the review process would have the documentation to ascertain the proposed site's validity. An applicant could inadvertently or deliberately specify site coordinates in both registration and Form 301 filings which would place the antenna over a body of water, on a steep hillside, or atop houses in a residential neighborhood. An unscrupulous filer might misstate coordinates to satisfy FM spacing requirements or for some other purpose. Both the processing line and Support Services might be blind to the error. Even the FAA might not catch the problem. Once approved, the permittee would build not in the lake, but on a shoreline site, one short-spaced to another authorized facility. Without a valid site map to allow Commission staff to independently scale coordinates, an otherwise-prohibited short-spaced FM

facility could be authorized in violation of the Rules. Site maps also serve valuable purposes in determining compliance with AM 1000 mv/m blanketing contour criteria; and easily alerting Commission staff to the proximity of any directional AM facilities whose patterns might be contaminated by new tower construction. (Relaxed authorization procedures for cellular telephone services have already adversely impacted several directional AM stations we consult.)

#### ANTENNA SKETCHES:

Like site maps, IBC maintains that site sketches of AM, FM and TV antennas, and most particularly AM directional arrays, are an important part of any construction permit application filing and should remain a requirement. Tower registration data on file with Support Services will not provide valuable information currently available. For example, the Commission should be aware of whether an FM antenna, particularly a directional antenna, would be mounted at the same elevation as other antennas on the proposed tower. Similarly, an AM filing should represent vertical characteristics and the nature and dimensions of such attachments as FM antennas, top-loading, or folded unipole skirts. An AM application should also continue to demand a site plat showing site boundaries and ground system configuration. (Current requirements for aerial or ground-level photographs of an AM site may, however, be deleted; a good topo map will usually suffice.)

#### COVERAGE CONTOUR MAPS:

AM, FM and television broadcast applicants should continue to provide maps documenting predicted contours, even if such maps must be scanned into computer to enable electronic filing. In the least, a revised FM Engineering section to Form 301 should continue to require a tabulation of terrain, 60dBu and 70dBu F(50,50) contours to enable the Commission or outside parties to prepare contour maps manually or electronically. And since many broadcast

applicants or licensees prefer to use manually-generated terrain (often grandfathered from previous filings), FM applications should allow filers the choice to specify terrain computed manually or from 30-Second or 3-Second computer databases. The choice of terrain might impact an applicant's compliance with contour protection rules or his satisfaction of community coverage requirements.

AM ALLOCATION STANDARDS:

The vastly simplified AM Tech Box section to the Commission's proposed Form 301 troubles this commenter. Before proceeding further, IBC should note that it remains one of only a handful of technical consulting firms nationally heavily involved in AM facility design. More than half our office's staff time is spent preparing new or modified AM broadcast facilities, or documenting licensing compliance for AM facilities newly built. We were instrumental in developing, and generally approve of, the tighter AM allocation standards established in 1991 by MM Docket No. 87-267. In that referenced proceeding, the Commission stated that its major objective was, *"the revitalization, indeed the survival, of the AM broadcast service."* In furtherance of that goal, the Commission tightened technical standards and insisted applicants fully document compliance with those standards for any proposed changes. Now, seven years later, the Commission's proposed relaxed documentation requirements and check-box certifications would, in IBC's opinion, retreat from those earlier objectives. For example, regarding AM groundwave compliance, existing forms specifically request a fully-prepared Figure M-3 map plus tabulations of soils, inverse fields, even contours, for all affected stations. The proposed AM Engineering Tech Box merely asks whether the proposal complies with the Rules, with "Exhibit Required." The nature and complexity of that required exhibit appears left to the applicant's discretion. Similar generalities exist with questions relating to nighttime and critical hours coverage.

FM DIRECTIONAL ANTENNAS:

As stated in the NPRM, the Commission seeks to avoid unnecessary duplication by requiring those specifying directional FM antennas to provide information concerning antenna manufacturer and type and to submit a directional antenna pattern plot at only the licensing, and not the construction permit, phase. IBC has observed that most applicants do not determine a preferred antenna supplier until after a construction permit is granted. Therefore, specific mention of antenna manufacturer and model on Form 301 constitutes, at best, a good guess. Such requirement may be deleted. As for pattern plots, however, IBC cautions that removal of this requirement at the construction permit phase should occur only if tabulation requirements are made specific enough to ensure regulatory compliance for both the Commission and other potentially impacted broadcasters. For example, in tight pattern minima (possibly at odd bearings), would an applicant still comply with the Section 73.316(b)(1) and (b)(2) Rules limiting maximum to minimum horizontal plane radiation to 15 dB or pattern variations to no more than 2 dB per 10 degrees? In particular, other broadcasters on co-channels or adjacent channels require this information to determine whether to lodge Petitions to Deny, available only at the construction permit application stage.

SITE CERTIFICATION:

A valid, accurately-determined antenna site is the starting point for any worthwhile broadcast application. IBC was troubled when the Commission in MM Docket No. 97-234 (the "competitive bidding" rule making, referenced previously) proposed to eliminate the requirement that Form 301 applicants certify "reasonable assurance" of access to their designated antenna site. We now observe that in the NPRM at hand, proposed site availability questions would delete any reference to the name, title or phone number of the site's owner. As a result, independent ascertainment of site availability

by the Commission or third parties would prove more difficult. IBC urges the Commission retain the site certification informational requirements specified on current forms.

CONTOUR OVERLAP MAPS:

In its NPRM, the Commission proposes elimination of the requirement that radio applicants submit contour overlap maps to demonstrate compliance with local radio ownership rules. The Commission argued the change would, *"reduce administrative burdens on broadcasters,"* and, *"streamline the staff review process."* While these arguments may be true, IBC maintains that in this era of rapid ownership consolidation, submission of these maps serves a vitally important purpose in proving both to the Commission and the public that a proposed purchaser or applicant has not overstepped legislatively-mandated ownership limits.

Since passage of the Telecommunications Act of 1996, radio station trading has been hectic. Recent media reports indicate some Commission members have become increasingly skeptical about potential ownership monopolization. In IBC's own local market, a transaction is under challenge by a citizens group. And nationally, the U.S. Justice Department has scrutinized, and in some cases, overturned proposed station sales.

The purpose of this proceeding is not to reexamine the Commission's multiple ownership policies. However, IBC wishes to stress that the Commission's current standard of overlapping city-grade contours remains difficult for many outside the industry to understand. Most citizens define "market" as the community to which a station is licensed, or the group of stations to which they commonly listen. The Commission's interpretation is far different. IBC also suggests that owners face an economic temptation to overreach the Commission standard and represent their market as more populated with stations than it actually is.



IBC urges the Commission retain current requirements for the submission of radio ownership contour maps. Should the Commission opt for only a "worksheet" requirement, IBC recommends such worksheet be retained in the applicant's Public File and be made available to Commission staff on request. IBC sees no purpose in exempting from Public File requirements those applications supposedly located in the largest of markets, those with forty-five stations or more. Overlapping contour methodology creates unique market definitions for each station or group of stations. Perhaps the only legitimate exception is when more than 45 stations are licensed to the same community, not market.

In any event, retention of contour overlap map studies serves the broadcaster as an excellent defense against challenge either by the Commission or by citizens groups. And requiring submission of these maps with assignment or construction permit applications ensures such documentation enters the public record. Many contour overlap studies are performed via computer by consultants or their subcontractors and could easily be transferred to the Commission's electronic medium. Manually performed studies could be scanned into the computer. IBC believes preserving current requirements will both help ensure honesty in the multiple ownership process and provide essential information to assist regulators and the public as they address one of the most controversial issues in broadcasting today.

#### CONSTRUCTION PERMIT EXTENSION PROCEDURES

In general, IBC affirms the Commission's proposal embodied in the NPRM for modification of procedures for construction permit extensions. IBC believes a longer and uniform three-year construction period for all services would allow a permittee to better plan and execute a construction timetable, relieve the Commission's staff from the burden of processing repeated extension requests, but still protect the public and other potential spectrum